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EXAMINER

WON, MICHAEL YOUNG

ART UNIT

PAPER NUMBER

2155

MAIL DATE

DELIVERY MODE

06/03/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

***Response to Amendment***

1. This action is in response to the arguments filed May 21, 2008.
2. No claims have been amended, no claims have been cancelled, and no new claims have been added.
3. Claims 42-53 have been examined and are pending with this action.

***Response to Arguments***

4. Applicant's arguments filed May 21, 2008 have been fully considered but they are not persuasive.

In response to the argument regarding the rejection of claims 46, 48, 49, 51, and 53 under 35 USC 112, 2<sup>nd</sup>, the rejection is maintained. The examiner cannot determined the range of time "substantially concurrently" refers to and therefore cannot determined the proper meets and bounds of the claim language.

In response the argument that the limitation of claim 42, specifically "transferring a copy of the first audio/video message to the server" is not taught by Shaffer, Shaffer clearly and explicitly teaches this limitation. The applicant(s) seem to be asserting that because the original message includes "a change, comment, or appending the original message in various ways" (se col.4, lines 55-57) that somehow this message is no longer a copy. This assertion is contrary to one of ordinary skill in the art and the

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applicant(s) are suggested to recite within the claims the functionality to support this assertion to overcome prior art.

In response to the argument that the limitation of claim 42, specifically “storing the first audio/video message on the server” is not taught by Shaffer, Shaffer clearly and explicitly teaches this limitation. Shaffer teaches of plural storage devices used to “store input data and processed data” (see col.3, lines 8-11), and further adds “CPU 102 can also directly and very rapidly retrieve and store frequently needed data in a cache memory” (see col.3, lines 21-22). Clearly one of ordinary skill in the art will conclude that any data Shaffer is relating to is regarding audio/video message since the reference teaches such data and also conclude that the functional step of storing is explicitly taught regardless of on the server or client since Shaffer teaches that the computer system 100 can be either a client or a server or any device suitable for carrying out the processing. The applicant(s) seem to be asserting that because Shaffer does not explicitly recite the claim language word for word that somehow the functionality is not taught.

In response to the argument that the limitation of claim 42, specifically “creating at least a second audio/video message on a second workstation at a second time later than the first time” is not taught by Shaffer, the examiner cannot conclude how the applicant(s) believe this to be true based on the argument. The applicant(s) add emphasis of “a second workstation”, however, the citation of Shaffer is equated by the applicant(s) as indicating “two different users, at two different workstations create...”. Therefore, a separate or a second workstation is clearly taught and/or suggested. Also,

with respect to the assertion of a different "portions of a single audio/video message", the examiner disagrees. One of ordinary skill in the art would that the audio portion can be considered one message while the video portion can be considered another message since they are transmitted from different locations and because they are individually considered "a message". Furthermore, the term "audio/video" as recited equates to audio **or** video and not audio **and** video as argued (emphasis added).

With respect to the argument regarding transferring of a second copy, see response above regarding the transferring of a first copy.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Reeley is not relied upon to teach all the limitations of the recited claim 42, hence the rejection is based on 35 USC 103(a). Reeley is only relied upon to teach the missing limitation of claim 42.

5. For the reasons above, claims 42-53 remain rejected and pending.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL Y. WON whose telephone number is (571)272-3993. The examiner can normally be reached on M-Th: 10AM-8PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Won/

Primary Examiner

May 29, 2008